IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 9694/2002

M/S LIBERTY PHOSPHATE LTD. & ORS.
Vs.
UNION OF INDIA & ORS.

DATE: 25.10.2007.

HON'BLE MR. JUSTICE K.S. RATHORE

Mr. R.P. Garg for the petitioners.
Mr. Kamlakar Sharma for the respondents.

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By way of this writ petition the petitioners have prayed to struck down the provisions of regulation 19(1)(a) of the Fertiliser Control Order, 1985.

Similar writ petition i.e. S.B. Civil Writ Petition No. 3920/2001- M/s Liberty Phosphate Ltd. & Anr. Vs. U.O.I. & Anr., involving identical question has been dismissed by the co-ordinate Bench of this Court vide order dated 01.05.2007, wherein the judgment passed by the Apex Court in **A.S. Parmar Vs. State of Punjab & Ors. (Civil Appeal No. 1465/2001 decided on 27.08.2002)** has been considered, in which the Apex Court has examined similar identical issue and finally observed that since no criminal proceedings have been taken, no cause of action has accrued to file a

petition under Article 226 of the Constitution. However, the Apex Court observed ad infra:

> "As and when the appellant is tried in a court of law, it is always open to the appellant to take such defence as may be permissible under law including defence under section 293 Cr.P.C. In that view of the matter, the writ petition filed by the petitioner was premature and ought not to have been entertained by the High Court."

Further similar writ petition i.e. S.B. Civil Writ Petition No. 463/2005- Liberty Phosphate Limited Vs. State of Rajasthan & Ors., along with 4 other writ petitions has also been dismissed by this Court vide order dated 13.10.2006.

In the instant case also, no criminal proceeding has been initiated and the petitioners are at liberty to redress their grievance as and when they are tried in a Court of law.

Consequently, the writ petition fails and the same is hereby dismissed as observed herein above.

(K.S. RATHORE),J.

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